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## **Group of Governmental Experts on Explosive Remnants of War**

Discussion paper on 'Warning to civilians'

### **Introduction**

The purpose of this paper is to provide a basis for informal discussions on the part of item 4 of the mandate of the Group of Governmental Experts that addresses 'Warning to the civilian population, in or close to, ERW-affected areas'. A better understanding of the nature, source and scope of the issue is essential for finding ways forward and possible solutions. The linked issue of assistance and co-operation is not addressed in this paper.

### **Background**

Every year large numbers of civilians are killed and injured by contact with unexploded munitions that no longer serve a military purpose. The presence of unexploded ordnance drains scarce medical resources, hinders agricultural production and other economic activity, prevents the delivery of food and medical supplies to vulnerable populations, and hinders reconstruction and development.

A number of possible measures have been proposed to address this indiscriminate impact, including preventing munitions from becoming unexploded, ensuring rapid and safe clearance and warning civilian populations. Although the principle of warning civilians by itself is of value, the effect of provisions on warning will accumulate if dealt with in a broader, integrated context (especially in the context of provisions for facilitating clearance).

In a process aimed at introducing warning provisions and raising awareness of the danger of UXO in a civilian population, there are a number of important factors to be considered: first, the range and nature of the different types of UXO that cause civilian casualties; second, the social and economic factors present in populations affected by these weapons; third, existing best practice in this area; and fourth, the technical and other information required to enable the provision of warnings. This paper also briefly considers existing measures in international humanitarian law.

## **Types of UXO**

There is a wide range of different ERW to be considered:

- Aircraft-delivered munitions (including general-purpose bombs, cluster munitions, air-to-air/air-to-ground rockets)
- Ground-delivered munitions (including artillery shells, including cluster munitions, anti-vehicle mines, mortars, grenades).

Although certain items of unexploded ordnance can pose a greater threat to civilians than others, civilian casualties are caused by the full range of fuzed explosive munitions including fuzes themselves.

However, it is important to note that certain variables can determine the extent of ERW impact. For example, cluster munitions are increasingly a weapon of choice against scattered targets, disseminating very large numbers of small submunitions capable of producing both a high density of UXO and sub-surface UXO. Factors such as the shape, size, and attractiveness of munitions with respect both to their value as an economic resource in affected societies and as objects of interest to children should also be considered.

In addition, abandoned munitions can be a major part of the ERW problem. Abandoned UXO that has not been fired but is left behind without being destroyed can be in a variety of conditions, and will always deteriorate and may become more sensitive over time.

## **Social and economic factors**

Recent research unambiguously concludes that social and economic factors affect risk-taking with UXO. A report published<sup>1</sup> earlier this year states 'that decisions to take risks with UXO are not only a balance between economics and fear, but are also conditioned by important social factors, including a sense of social responsibility'.

In poor communities, UXO and other military debris have a high value because of the value of the scrap metal and the utility of the explosives.

Furthermore, the data in the report show that while the great majority of UXO victims are men, children make up a significantly large proportion of the victims. The size and shape of the munitions, particularly the bright colours of certain submunitions, make them attractive to children.

In the context of ERW, an UXO awareness programme would therefore have to take into consideration social factors such as poverty, gender and age. Measures are required that will be effective in different contexts, for example among refugees, internally displaced people, resident populations, and nomadic groups. The already extensive landmine/UXO awareness education efforts should serve as a basis for further deliberations on this issue.

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<sup>1</sup> Explosive Remnants of War – Unexploded ordnance and post-conflict communities, published in March 2002 by Landmine Action.

### **Existing best practice**

In considering possible measures it is important that existing international standards and best practices are taken into account. The International Mine Action Standards (IMAS) on mine-risk education are presently being developed. In 1999, the United Nations issued International Guidelines for Landmine and Unexploded Ordnance Awareness Education, which describe the main issues for programme planners.

Mine and unexploded ordnance awareness education is defined in the IMAS as ‘a process that promotes the adoption of safer behaviours by at-risk groups, and which provides the links between affected communities, other mine action components and other sectors’. The Standards note that there are two related and mutually reinforcing components to this activity: community liaison and public education. They are not, however, alternatives to each other, nor are they to be regarded as an alternative to eradicating the ERW threat by clearance operations. Community liaison is an inclusive approach designed to promote safe behaviour and involve ERW-affected communities in planning, prioritising and implementation of wider mine action programmes, including explosive ordnance disposal. Public education aims to raise awareness of the ERW threat, and to communicate safety information.

The experience of implementing organisations is that, in order to be effective over the medium to long term, it is necessary to integrate awareness education with mine/UXO survey and clearance as well as with the work of other development and aid sectors. Effective warning will require the long-term involvement of communities in addressing the impact of ERW, for example by providing a conduit for data necessary for prioritising clearance. States Parties should recognise this, and the dangers of setting lower standards, in discussing possible warning measures within the framework of the CCW.

### **Technical and other information required**

Parties to a conflict wishing to enable the provision of warning to civilians should consider the information required by organisations that are best able to deliver warnings to the necessary standards. As with the clearance of ERW, it is of critical importance that the users of munitions provide such information rapidly after their use to facilitate the provision of suitable warnings in areas no longer affected by active hostilities and to populations that may soon return to their communities. Once a weapon has been deployed neither it nor the impact point can be regarded as militarily sensitive. Information detailing weapon type and actual (not intended) impact point might be registered with a neutral entity immediately after an attack has taken place in such a way as to both protect military interests and to avoid delay.

Information identified by the ICRC and GICHD as useful for UXO awareness includes the types of munitions used, such as the dimensions and visual characteristics of both the munitions and packaging material; and corresponding details regarding their use, such as method and direction of delivery, drop height and target area. This will enable the development of suitable materials, the training of trainers and better targeting of awareness activities. More detailed information about the munitions, such as the incorporation of self-destruct or self-neutralisation mechanisms, will assist with the training of awareness trainers.

### **Existing measures in international humanitarian law**

The last clause of the mandate of the Group of Governmental Experts states that the Co-ordinator is to submit recommendations adopted by consensus at an early date for

consideration by the States Parties, including whether to proceed with negotiating a legally binding instrument or instruments on ERW and/or other approaches.

Existing international humanitarian law includes provisions for warning civilians that are of relevance to this discussion. Article 57 (para 2) of Protocol I Additional to the Geneva Conventions requires that effective advance warning shall be given of attacks which may affect the civilian population; Article 58 requires the parties to the conflict to take ‘the other necessary precautions to protect the civilian population, individual civilians and civilian objects under their control against the dangers resulting from military operations’.

More specifically, Articles 3 (para 4) and 5 (para 2) of CCW Protocol II, Articles 3 (para 10(b)), 6 (para 4) and 9 (para 2) of CCW Amended Protocol II, and Articles 5 (para 2) and 7 of the Convention on AP mines contain general measures to protect civilians from the effects of mines, booby traps and other devices (as defined by the relevant texts). These include rules on advanced warnings, markings, clearance and a responsibility to provide information on the types, quantities and technical characteristics of the weapons concerned. Although none of these provisions specifically address unexploded ordnance other than mines, booby traps and other devices (as defined in Protocol II as amended), they could serve as guidelines for the wording of future legal texts.

Based on the above-mentioned legal texts, the following elements should be considered in the discussions on warning to civilians:

- Provisions that ensure effective advance warning to the civilian population who are at risk from ERW;
- Measures concerning the rapid provision of information about where unexploded ordnance may be found, what it looks like, the nature of the particular hazard associated with them, and other relevant factors;
- Adherence to best practices in the provision of UXO awareness education.

When the ICRC initiated the ERW process, the organisation also suggested principles for a possible new protocol. One of these principles addressed warning to civilians:

‘The protocol should contain provisions for warning civilian populations of the danger of unexploded ordnance. In general, the quantity of munitions employed, and the areas covered by them were known by users. Civilian populations should receive ERW awareness information, including images of weapons concerned and the dangers they present, immediately after the use of the weapons in a given area.’

This paper encompasses the above-mentioned elements and could serve as a basis for further deliberations and for a legally binding text.

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